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Attorneys for Claimants/Respondents and Plaintiffs MATTHEW ISHAM, individually and as Guardian ad Litem for, HAYDEN ISHAM, a minor and ROXANNE BEST ISHAM

FILED IN THE UNITED STATES DISTRICT COLLET DISTRICT OF HAVEN

DEC 2 2 2005

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

IN THE MATTER OF THE COMPLAINT OF BLUE DOLPHIN CHARTERS, LTD. AND TERRY DONNELLY, AS OWNERS OF THE VESSEL M/V BLUE DOLPHIN, O/N 1082213, FOR EXONERATION FROM AND/OR LIMITATION **OF LIABILITY**

Civil NO. CV05-00037 HG-BMK [3 Consolidated Cases]

MATTHEW ISHAM, individually and as Guardian ad Litem for, HAYDEN ISHAM. a minor and ROXANNE BEST ISHAM'S NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT: CERTIFICATE OF SERVICE

Date:

January 23, 2006

Time:

10:30 a.m.

Courtroom: Aha Nonoi, 4th Floor

The Hon. Trial Date: Helen Gillmor April 11, 2006

MATTHEW ISHAM, CIVIL NO.: CV 04 00559 HG-BMK individually and as Guardian Ad Litem for HAYDEN ISHAM, a minor; ROXANNE BEST ISHAM, Plaintiffs, VS. BLUE DOLPHIN CHARTERS, LTD. and BLUE DOLPHIN DIVING, LTD., CAPTAIN ANDY'S SAILÍNG, INC., DOES 1 - 50. Defendants. DENNIS CLAYPOOL, CIVIL NO.: CV 04 00570 HG-BMK individually and as Guardian ad Litem for KRISTEN CLAYPOOL, a minor, SHERYL CLAYPOOL, SCOTT CLAYPOOL, AND KRISTEN CLAYPOOL, Plaintiffs, VS. CAPTAIN ANDY'S SAILING. INC., BLUE DOLPHIN CHARTERS, LTD. And BLUE DOLPHIN DIVING, LTD., Defendants.

TO THE PARTIES HERETO AND TO THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Local Rule 56.1 and Federal Rule of Civil Procedure 56(b) and (d), on January 23, 2006 at the hour of 10:30 a.m., or as soon thereafter as counsel may be heard by this Court, located at 300 Ala Moana Blvd., Honolulu, Hawaii, in Courtroom Aha Nonoi of the Honorable Helen Gillmor, MATTHEW ISHAM, individually and as Guardian ad Litem for, HAYDEN ISHAM, a minor and ROXANNE BEST ISHAM (hereinafter referred to as "the Isham Claimants") will move the Court for partial summary judgment in Action No. CV 04-00559.

The motion will be made upon the ground that Matthew Isham cannot be held liable for contributory negligence as a matter of law.

The movants are therefore entitled to partial summary judgment as a matter of law.

This motion is based on this Notice, the Memorandum of Points and Authorities, Declaration of Richard A. Lesser, Concise Statement of Undisputed Material Facts filed with the court and upon such oral and documentary evidence as may be presented at the hearing of this matter.

Dated: Redondo Beach, California, December 21, 2005.

RICHARD LESSER

LESSER & ASSOCIATES, PLC

Attorneys for Claimants/Respondents and Plaintiffs MATTHEW ISHAM, individually and as Guardian ad Litem for, HAYDEN ISHAM, a minor and ROXANNE BEST ISHAM